

**Senate File 2072 - Introduced**

SENATE FILE 2072  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1136)

**A BILL FOR**

1 An Act relating to the detention of a person taken into  
2 immediate custody in an involuntary hospitalization  
3 proceeding and providing a penalty.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 229.10, subsection 1, paragraph a, Code  
2 Supplement 2009, is amended to read as follows:

3 a. An examination of the respondent shall be conducted by  
4 one or more licensed physicians, as required by the court's  
5 order, within a reasonable time. If the respondent is detained  
6 pursuant to section 229.11, subsection 1 3, paragraph "b",  
7 the examination shall be conducted within twenty-four hours.  
8 If the respondent is detained pursuant to section 229.11,  
9 subsection 1 3, paragraph "a" or "c", the examination shall  
10 be conducted within forty-eight hours. If the respondent  
11 so desires, the respondent shall be entitled to a separate  
12 examination by a licensed physician of the respondent's own  
13 choice. The reasonable cost of the examinations shall, if the  
14 respondent lacks sufficient funds to pay the cost, be paid from  
15 county funds upon order of the court.

16 Sec. 2. Section 229.11, Code Supplement 2009, is amended to  
17 read as follows:

18 **229.11 Judge may order immediate custody.**

19 1. If the applicant requests that the respondent be taken  
20 into immediate custody and the judge, upon reviewing the  
21 application and accompanying documentation, finds probable  
22 cause to believe that the respondent has a serious mental  
23 impairment and is likely to injure the respondent or other  
24 persons if allowed to remain at liberty, the judge may enter  
25 a written order directing that the respondent be taken into  
26 immediate custody by the sheriff or the sheriff's deputy and be  
27 detained until the hospitalization hearing.

28 2. The hospitalization hearing shall be held no more than  
29 five days after the date of the order, except that if the  
30 fifth day after the date of the order is a Saturday, Sunday,  
31 or a holiday, the hearing may be held on the next succeeding  
32 business day.

33 3. If the expenses of a respondent are payable in whole  
34 or in part by a county, for a placement in accordance with  
35 paragraph "a", the judge shall give notice of the placement to

1 the central point of coordination process, and for a placement  
2 in accordance with paragraph "b" or "c", the judge shall order  
3 the placement in a hospital or facility designated through the  
4 central point of coordination process. The judge may order the  
5 respondent detained for the period of time until the hearing  
6 is held, and no longer, in accordance with paragraph "a", if  
7 possible, and if not then in accordance with paragraph "b",  
8 or, only if neither of these alternatives is available, in  
9 accordance with paragraph "c". Detention may be:

10 a. In the custody of a relative, friend or other suitable  
11 person who is willing to accept responsibility for supervision  
12 of the respondent, and the respondent may be placed under  
13 such reasonable restrictions as the judge may order including  
14 but not limited to restrictions on or a prohibition of any  
15 expenditure, encumbrance or disposition of the respondent's  
16 funds or property;~~or.~~

17 b. In a suitable hospital the chief medical officer of  
18 which shall be informed of the reasons why immediate custody  
19 has been ordered and may provide treatment which is necessary  
20 to preserve the respondent's life, or to appropriately control  
21 behavior by the respondent which is likely to result in  
22 physical injury to the respondent or to others if allowed  
23 to continue, but may not otherwise provide treatment to the  
24 respondent without the respondent's consent;~~or.~~

25 c. In the nearest facility in the community which is  
26 licensed to care for persons with mental illness or substance  
27 abuse, provided that detention in a jail or other facility  
28 intended for confinement of those accused or convicted of crime  
29 shall not be ordered.

30 4. If the respondent is detained pursuant to subsection  
31 3, paragraph "b" or "c", hospital or facility personnel  
32 shall accept custody of the respondent from the sheriff or  
33 the sheriff's deputy within two hours of the respondent's  
34 arrival at the hospital or facility if the respondent has been  
35 evaluated by a physician within the previous six hours pursuant

1 to court order and if all of the following conditions are met:

2 a. The hospital or facility has a bed available. The  
3 hospital or facility shall inform the sheriff or the sheriff's  
4 deputy within thirty minutes of arrival of the availability of  
5 such a bed.

6 b. The respondent is not violent or in need of physical  
7 restraints.

8 c. The hospital's or facility's capacity to provide trauma  
9 care is not compromised.

10 d. The respondent does not require a health screening.

11 e. Acceptance of the respondent under the care of the  
12 hospital or facility does not place the hospital or facility in  
13 violation of the federal Emergency Medical Treatment and Active  
14 Labor Act, 42 U.S.C. § 1395dd.

15 5. Upon acceptance of custody of a respondent from a  
16 sheriff or a sheriff's deputy and the departure of the sheriff  
17 or sheriff's deputy from the hospital or facility, neither  
18 the hospital or facility nor any employee of the hospital or  
19 facility shall be liable for civil damages arising out of any  
20 violent acts committed by the respondent within or outside  
21 of the hospital or facility or the respondent's escape or  
22 attempted escape from the hospital or facility.

23 ~~2.~~ 6. The clerk shall furnish copies of any orders to  
24 the respondent and to the applicant if the applicant files a  
25 written waiver signed by the respondent.

26 Sec. 3. Section 229.22, subsection 2, paragraph a, Code  
27 Supplement 2009, is amended to read as follows:

28 a. In the circumstances described in subsection 1, any  
29 peace officer who has reasonable grounds to believe that a  
30 person is mentally ill, and because of that illness is likely  
31 to physically injure the person's self or others if not  
32 immediately detained, may without a warrant take or cause that  
33 person to be taken to the nearest available facility as defined  
34 in section 229.11, subsection ± 3, paragraphs "b" and "c". A  
35 person believed mentally ill, and likely to injure the person's

1 self or others if not immediately detained, may be delivered  
2 to a hospital by someone other than a peace officer. Upon  
3 delivery of the person believed mentally ill to the hospital,  
4 the examining physician may order treatment of that person,  
5 including chemotherapy, but only to the extent necessary to  
6 preserve the person's life or to appropriately control behavior  
7 by the person which is likely to result in physical injury  
8 to that person or others if allowed to continue. The peace  
9 officer who took the person into custody, or other party  
10 who brought the person to the hospital, shall describe the  
11 circumstances of the matter to the examining physician. If the  
12 person is a peace officer, the peace officer may do so either  
13 in person or by written report. If the examining physician  
14 finds that there is reason to believe that the person is  
15 seriously mentally impaired, and because of that impairment is  
16 likely to physically injure the person's self or others if not  
17 immediately detained, the examining physician shall at once  
18 communicate with the nearest available magistrate as defined in  
19 section 801.4, subsection 10. The magistrate shall, based upon  
20 the circumstances described by the examining physician, give  
21 the examining physician oral instructions either directing that  
22 the person be released forthwith or authorizing the person's  
23 detention in an appropriate facility. The magistrate may also  
24 give oral instructions and order that the detained person be  
25 transported to an appropriate facility.

26 EXPLANATION

27 This bill relates to the detention of a person taken into  
28 immediate custody in an involuntary hospitalization proceeding.

29 The bill provides that if a respondent who is the subject  
30 of an involuntary hospitalization proceeding has been taken  
31 into immediate custody and detained in a hospital or facility,  
32 hospital or facility personnel shall accept custody of the  
33 respondent from the sheriff or the sheriff's deputy within two  
34 hours of the respondent's arrival at the hospital or facility  
35 if the respondent has been evaluated by a physician within the

1 previous six hours pursuant to court order and if the hospital  
2 or facility has a bed available with notice of availability  
3 to be made within 30 minutes of the sheriff's arrival at the  
4 hospital or facility, the respondent is not violent or in need  
5 of physical restraints, the hospital's or facility's capacity  
6 to provide trauma care is not compromised, the respondent  
7 does not require a health screening, and acceptance of the  
8 respondent under the care of the hospital or facility does not  
9 place the hospital or facility in violation of the federal  
10 Emergency Medical Treatment and Active Labor Act.

11 The bill provides that upon acceptance of custody of a  
12 respondent from a sheriff or a sheriff's deputy and the  
13 departure of the sheriff or sheriff's deputy from the  
14 hospital or facility, neither the hospital or facility nor  
15 any employee of the hospital or facility shall be liable for  
16 civil damages arising out of any violent acts committed by the  
17 respondent within or outside of the hospital or facility or the  
18 respondent's escape or attempted escape from such hospital or  
19 facility.